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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,874

03/26/2004

James Stephen Clark

82652

9759

22242

7590

06/29/2006

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EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,874	CLARK ET AL.	
	Examiner	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/23/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the amendment papers, filed on May 23, 2006. Applicant's amendments and arguments have been carefully considered.

2. In claim 18, the expression "4 2 inch wide strap" appears to be a typo. Correction is required.

3. Claims 1 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US 3,244,120).

Taylor discloses a center beam railcar having all the features as recited in the instant claims, including center beam 10 having top chord 14 that is not substantially greater than the width of the intermediate structure of the center beam.

4. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Saxton (US 5,758,584).

Saxton discloses a center beam railcar having features as recited in the instant claims including bulkheads 30 and center beam 18 that is provided with center sill 148, intermediate structure 72, 74, 76, 78, 84, and member 62 that is readable as a top chord. As shown in Figure 13 of Saxton, chord 62 is not substantially greater than the width of the intermediate structure, as claimed.

5. Claims 1, 4-9, 16-17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dominguez (US 4,951,575).

Dominguez discloses a depressed central portion center beam railcar having features as recited in the instant claims including bulkheads 58, and a center beam that comprises center sill 6, intermediate structure 10, and member 12 that is readable as a

top chord. As shown in Figure 7 of Dominguez, chord 12 is not substantially greater than the width of the intermediate structure, as claimed.

Regarding the instant claimed clear loading height of at least 14ft above the depressed central portion, the railcar of Dominguez inherently has a clear loading height of at least about 14ft above the depressed central portion that is outside the lateral bounds of the overhead structure 20.

Regarding the instant claimed length of the end portion of the railcar, as recited in instant claims 7, and the instant claimed elevation dimension, as recited in instant claim 8, note that since the railcar of Dominguez is inherently capable of being used to carry a product that has a product length and an elevation dimension corresponding to the claimed dimensions of the railcar, as claimed, the instant claimed length and elevated dimension is considered met.

As to the instant claimed winches for flexible straps, consider winch 74 of Dominguez.

Regarding the instant claimed horizontal support structures, consider the horizontal structural supports, as shown in Figure 3 of Dominguez, that extend between bulkheads 58 and columns 10.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saxton (US 5,758,584).

Saxton is applied above. It is noted that chord 62 of Saxton is not thick enough to be readable as generally square as claimed; however, it would have been obvious to one skilled in the art to substitute a thicker beam for chord 62 of Saxton so as to provide

a stronger support. Accordingly, such a thicker beam is readable as generally square as claimed.

7. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (US 4,951,575).

Dominguez is applied above.

Regarding the instant claimed length of the end portion of the railcar, as recited in instant claims 7, or the elevation dimension, as recited in instant claim 8, it would have been obvious to one skilled in the art to use the railcar of Dominguez to carry any products including a product that has a length and a height corresponding to the length of the railcar end portion and the height of the railcar depressed portion because it is obvious that railcar of Dominguez is designed to carry any suitable product thereon, and the product having such length and height, as described above, is clearly a suitable product to be carried by Dominguez's railcar.

8. Claims 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (US 4,951,575) in view of Bonner (US 6,058,799).

Dominguez is applied above.

Saxton, Figure 4, shows conventional winch 100 that are designed to operate with an elongated flexible member in the form of a heavy duty nylon strap 104 that is 4-8 inch wide and up to 50 ft long.

In view of Bonner, it would have been obvious to one skilled in the art to substitute heavy duty winches and straps, similar to that shown in Figure 4 of Bonner, for that of Dominguez so as to enhance the securement of loads on the railcar.

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (US 4,951,575) in view of Landrum (US 6,199,486).

Dominguez discloses a center beam railcar, similar to that recited in the instant claims, except for the matters explained in below.

Regarding the instant claimed top chord being free of any structure protruding substantially beyond the width of the intermediate structure so as to allow a clear loading height of at least about 14 ft above the depressed central portion of the deck, consider the center beam assembly of Landrum, wherein top chord 135 is structured as recited in the instant claims.

In view of Landrum, it would have been obvious to one skilled in the art to construct the center beam of Dominguez with a top chord structured in a manner similar to that taught by Landrum so as to achieve expected advantages of Landrum's structure, such as avoiding interferences with loadings by overhead cranes from above the railroad car.

Regarding the instant claimed load carrying capacity of at least "about" 110 tons, and the unloaded weight of not greater than 70,000 lbs, it is noted that such load carrying capacity and unloaded weight appear to be common with standard center beam railcars (note for example, the Description of the Prior Art section, on column 1 of Dominguez), therefore, it would have been obvious to one skilled in the art to construct the center beam car of Dominguez in similar load carrying capacity and unloaded weight as the standard center beam railcars so as to enable the car to be used in similar applications as the standard center beam railcars. Regarding the railroad car being

capable of carrying at least "about" 110 tons, note that a 100 ton railcar is inherently capable of carrying a load of at least "about" 110 tons because a railway car design for use in the railroad industry inherently would include a safety factor to prevent the railroad car to fail at a load that is not too significantly exceeding the intended load capacity.

10. Regarding Applicant's argument that Saxton calls structure 56, not structure 62, as the top chord, note that Applicant, Saxton, as well as other skilled in the art, each can be his own lexicographer. Therefore, patentability determination should not confine to a name assigned to a structure but rather on the basis of the broadest reasonable interpretation. In the instant case, on the basis of the functionalities of the structural members of the railcar of Saxton, the following interpretation is deemed reasonable - e.g. member 62 of Saxton is readable as a top chord of center beam 28, and the structure formed by members 64,67 above top chord 62 is readable as a lateral stiffening assembly that is mounted on the top chord to provide additional lateral stiffening effect to center beam.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

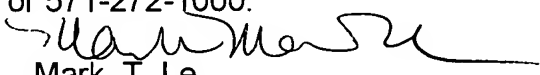
Art Unit: 3617

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (2:00-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark T. Le
Primary Examiner
Art Unit 3617

mle
6/22/06